

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

THOMAS PETERS,	:	Case No. _____
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
AMFIRE MINING COMPANY, LLC, and	:	
ALPHA NATURAL RESOURCES, INC.	:	
	:	
Defendants.	:	

**JOINT NOTICE OF REMOVAL**

Defendants AMFIRE Mining Company, LLC and Alpha Natural Resources, Inc. (collectively, “Defendants”) hereby file this Joint Notice of Removal of the above-described action to the United States District Court for the Western District of Pennsylvania from the Court of Common Pleas of Jefferson County, Pennsylvania where the action is now pending as provided by Title 28, U.S. Code, Chapter 89, and state:

1. Plaintiff Thomas Peters (“Plaintiff”) commenced the within civil action against Defendants by filing a Complaint on December 5, 2013, in the Court of Common Pleas of Jefferson County, Pennsylvania. A copy of the Complaint is attached hereto as Exhibit “A”.

2. The Plaintiff is now and was at the time the state action was commenced a citizen of the Commonwealth of Pennsylvania. **Complaint, ¶ 1.**

3. Defendant AMFIRE Mining Company, L.L.C. (“AMFIRE”) is now and was at the time the state action was commenced a limited liability company organized under the laws of Delaware. AMFIRE received a copy of the Complaint on or about December 11, 2013.

4. “The citizenship of a limited liability company ‘is determined by the citizenship of each of its members.’” *Johnson v. SmithKline Beecham Corporation*, 724 F.3d 337, 348 (3d Cir. 2013) *quoting Zambelli Fireworks Mfg. Co. v. Wood*, 592 F.3d 412, 418 (3d Cir. 2010).

AMFIRE avers that its members are AMFIRE, LLC and AMFIRE WV, L.P. AMFIRE, WV, L.P. is a Delaware limited partnership and its limited partner is AMFIRE, LLC and its general partner is AMFIRE Holdings, LLC. AMFIRE Holdings, LLC is a Delaware limited liability company and its sole member is AMFIRE, LLC. AMFIRE, LLC is a Delaware limited liability company and its sole member is Maxxum Carbon Resources, LLC. Maxxum Carbon Resources, LLC is a Delaware limited liability company and its sole Member is Alpha Natural Resources, LLC. Alpha Natural Resources, LLC is a Delaware limited liability company and its sole member is Alpha Natural Resources, Inc.

5. Defendant Alpha Natural Resources, Inc. (“Alpha”) is now and was at the time the state action was commenced a corporation formed under the laws of Delaware and its principal place of business is Bristol, VA. The Complaint was served on Alpha on or about December 12, 2013.

6. The amount in controversy in this case exceeds seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs. This fact is supported by Plaintiff’s counsel’s pre-suit demand to Defendants of Two Million Seven Hundred and Fifty Thousand dollars (\$2,750,000.00).

7. Because the amount in controversy exceeds the sum of seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs, and is between citizens of different states, the within action may, therefore, be removed to this United States District Court pursuant to 28 U.S.C. § 1332. Venue lies in the Western District of Pennsylvania pursuant to 28 U.S.C. § 1391(b).

8. This Notice of Removal is being filed within thirty (30) days after the receipt by Defendants of the Complaint.

9. All Defendants join in this Notice of Removal.

10. Defendants will give written notice of the filing of this notice as required by 28 U.S.C. § 1446(d).

11. A copy of this notice will be filed with the Prothonotary's Office of the Court of Common Pleas of Jefferson County as required by 28 U.S.C. § 1446(d).

WHEREFORE, the Defendants, AMFIRE Mining Company, LLC and Alpha Natural Resources, Inc., pray that the above-captioned action now pending before the Court of Common Pleas of Jefferson County, Pennsylvania, Case No. 1034-2013-CD, be removed to this Court.

Respectfully submitted,

/s/ Daniel R. Micheltmore

Michael P. Leahey (PA Bar No. 92933)

Daniel R. Micheltmore (PA Bar No. 94460)

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*Attorneys for Defendants AMFIRE Mining Company, LLC  
and Alpha Natural Resources, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing *Joint Notice of Removal* was served upon the following counsel of record via U.S. Mail on this 3<sup>rd</sup> day of January, 2014.

Julie Wieczorek Fritsch  
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*Counsel for Plaintiff*

/s/ Daniel R. Michelmore  
Michael P. Leahey, Esquire  
Daniel R. Michelmore, Esquire